

## **DETAILED ACTION**

### ***Priority***

Receipt is acknowledged of papers filed under 35 U.S.C. 119 (a)-(d) based on an application filed via the PCT on 8/13/2004. Applicant has not complied with the requirements of 37 CFR 1.63(c), since the oath, declaration or application data sheet does not acknowledge the filing of any foreign application. A new oath, declaration or application data sheet is required in the body of which the present application should be identified by application number and filing date.

### ***Drawings***

The drawings are objected to because Figure 6 contains shading that makes it hard to read the drawings. Also, the titles for the figures should be removed since this information is located in the specification.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an

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application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The abstract of the disclosure is objected to because it contains claim language such as "comprising" and is simply one long run-on sentence. Examiner suggests deleting the claim language and breaking the abstract up into smaller sentences. Correction is required. See MPEP § 608.01(b).

The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

### **Arrangement of the Specification**

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

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- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT.
- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC.
- (f) BACKGROUND OF THE INVENTION.
  - (1) Field of the Invention.
  - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (g) BRIEF SUMMARY OF THE INVENTION.
- (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (i) DETAILED DESCRIPTION OF THE INVENTION.
- (j) CLAIM OR CLAIMS (commencing on a separate sheet).
- (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

The disclosure is objected to because of the following informalities: Examiner strongly suggests adding appropriate headers were necessary.

Appropriate correction is required.

### ***Claim Objections***

Claim 1 is objected to because of the following informalities: in line 3, "encapsulating" should be changed to --encapsulate-- to correct the grammatical mistake. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

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The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "said bladder section" in line 4. There is insufficient antecedent basis for this limitation in the claim.

Claims 2-5 are dependent on claim 1 and are therefore rejected for the same reasons outlined above with respect to claim 1.

Claim 6 refers to "a first chamber" in line 6 and "subsequent chambers" in line 8. However, it is unclear from the claim language if these chambers are part of the "plurality of inflatable chambers" or separate elements in addition to the plurality of inflatable chambers. Examiner suggests adding language such as "a first chamber of the plurality of inflatable chambers" to overcome the rejection.

Claim 7 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite in that it fails to point out what is included or excluded by the claim language. This claim is an omnibus type claim.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims 1, 3, and 5-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Barak et al. (US 2002/0042583, herein referred to as “Barak”).**

Regarding claims 1, 6, and 7, Barak discloses a method and device for preventing deep vein thrombosis (paragraph 3) comprising providing at least one sleeve (1) adapted to be disposed substantially around a lower limb of a user (see Figure 2), each sleeve comprising a bladder being dividing into a plurality of inflatable chambers (7) arranged co-axially and encapsulating the limb of a user (see Figure 2); inflating a first chamber located at the distal end of the lower limb and then sequentially inflating subsequent chambers until all the chambers are inflated, thereby providing a source of compression pressure to the lower limb which grows continuously from the distal end to the proximal end of the limb (see paragraph 60); and deflating the chambers (paragraph 60). The chambers are in fluid communication with each other in such a manner that fluid in any one of the chambers is allowed to pass to a next chamber in sequence on a fluid pressure reaches a predetermined value (paragraph 60). Barak further discloses that the chambers are inflated via a pneumatic fluid source (64).

Regarding claim 3, Barak discloses a compressor (64) and at least one solenoid (66) that helps control the air flow to the sleeve. Note that even in the embodiment with self-relief valves, the compressor would have at least one solenoid valve for simple on/off operation of the device to begin inflation of the distal chamber.

Regarding claim 5, Barak discloses that the compressor is portable (paragraphs 55 and 62 for example).

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***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Barak as applied to claim 1 above and further in view of Arkans (US 4,375,217).** Barak is silent as to the sleeve comprising an inelastic outer casing. However, Arkans discloses a similar compression device with an inflatable sleeve having an inelastic outer casing (column 2, line 50). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided Barak's device with an inelastic outer casing as taught by Arkans in order to better direct the pressure towards to the limb and provide more compression. Such a modification would involve the mere substitution of a well known method for better directing compressive pressure towards a limb in a well known device to yield predictable results that do not patentably distinguish an invention over the prior art. Furthermore, there is nothing structurally in Barak that would prevent the use of an inelastic outer casing and it appears as though Barak would perform equally well with such a modification.

**Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Barak as applied to claim 1 above and further in view of Kuslich et al. (US 2002/0115949, herein referred to as "Kuslich").** Barak lacks tension straps. However, Kuslich discloses a similar compression device with an inflatable bladder secured to the limb by tension straps (17).

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Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided Barak's device with tension straps to allow a more custom fit on the limb of a user and to accommodate various sizes of patients more easily with the same device. Such a modification would involve the mere substitution of a well known method for securing an inflatable bladder onto a limb in a well known device to yield predictable results that do not patentably distinguish an invention over the prior art. Furthermore, there is nothing structurally in Barak that would prevent the use of tension straps and it appears as though Barak would perform equally well with such a modification.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KRISTEN C. MATTER whose telephone number is (571)272-5270. The examiner can normally be reached on Monday - Friday 9-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine Yu can be reached on (571) 272-4835. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kristen C. Matter/  
Examiner, Art Unit 3771